

House File 2274

H-8014

1 Amend House File 2274 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 331.512, Code 2011, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 13A. Carry out duties relating to
7 the business property tax credit as provided in chapter
8 426C.

9 Sec. 2. Section 331.559, Code 2011, is amended by
10 adding the following new subsection:

11 NEW SUBSECTION. 14A. Carry out duties relating to
12 the business property tax credit as provided in chapter
13 426C.

14 Sec. 3. NEW SECTION. **426C.1 Definitions.**

15 For the purposes of this chapter, unless the context
16 otherwise requires:

17 1. "*Contiguous parcels*" means any of the following:

18 a. Parcels that share a common boundary.

19 b. Parcels within the same building or structure
20 regardless of whether the parcels share a common
21 boundary.

22 c. Improvements to the land that are situated on
23 one or more parcels of land that are assessed and taxed
24 separately from the improvements if the parcels of land
25 upon which the improvements are situated share a common
26 boundary.

27 2. "*Department*" means the department of revenue.

28 3. "*Fund*" means the business property tax credit
29 fund created in section 426C.2.

30 4. "*Parcel*" means as defined in section 445.1.

31 5. "*Property unit*" means contiguous parcels all of
32 which are located within the same county, with the same
33 property tax classification, each of which contains
34 permanent improvements, are owned by the same person,
35 and are operated by that person for a common use and
36 purpose.

37 Sec. 4. NEW SECTION. **426C.2 Business property tax
38 credit fund — appropriation.**

39 1. A business property tax credit fund is created
40 in the state treasury under the authority of the
41 department. For the fiscal year beginning July 1,
42 2013, there is appropriated from the general fund of
43 the state to the department to be credited to the
44 fund, the sum of fifty million dollars to be used
45 for business property tax credits authorized in this
46 chapter. For the fiscal year beginning July 1, 2014,
47 and each fiscal year thereafter, there is appropriated
48 from the general fund of the state to the department
49 to be credited to the fund an amount equal to the
50 total amount appropriated by the general assembly to

1 the fund in the previous fiscal year. In addition,
2 the sum of fifty million dollars shall be added to the
3 appropriation in each fiscal year beginning on or after
4 July 1, 2014, if the revenue estimating conference
5 certifies during its final meeting of the calendar year
6 ending prior to the beginning of the fiscal year that
7 the total amount of general fund revenues collected
8 during the fiscal year ending during such calendar year
9 was at least one hundred four percent of the total
10 amount of general fund revenues collected during the
11 previous fiscal year. However, the total appropriation
12 to the fund shall not exceed two hundred million
13 dollars for any one fiscal year.

14 2. Notwithstanding section 12C.7, subsection 2,
15 interest or earnings on moneys deposited in the fund
16 shall be credited to the fund. Moneys in the fund are
17 not subject to the provisions of section 8.33 and shall
18 not be transferred, used, obligated, appropriated,
19 or otherwise encumbered except as provided in this
20 chapter.

21 Sec. 5. NEW SECTION. 426C.3 Claims for credit.

22 1. Each person who wishes to claim the credit
23 allowed under this chapter shall obtain the appropriate
24 forms from the assessor and file the claim with the
25 assessor. The director of revenue shall prescribe
26 suitable forms and instructions for such claims, and
27 make such forms and instructions available to the
28 assessors.

29 2. a. Claims for the business property tax credit
30 shall be filed not later than March 15 preceding the
31 fiscal year during which the taxes for which the credit
32 is claimed are due and payable.

33 b. A claim filed after the deadline for filing
34 claims shall be considered as a claim for the following
35 year.

36 3. Upon the filing of a claim and allowance of the
37 credit, the credit shall be allowed on the parcel or
38 property unit for successive years without further
39 filing as long as the parcel or property unit satisfies
40 the requirements for the credit. If the parcel or
41 property unit owner ceases to qualify for the credit
42 under this chapter, the owner shall provide written
43 notice to the assessor by the date for filing claims
44 specified in subsection 2 following the date on which
45 the parcel or property unit ceases to qualify for the
46 credit.

47 4. When all or a portion of a parcel or property
48 unit that is allowed a credit under this chapter is
49 sold, transferred, or ownership otherwise changes, the
50 buyer, transferee, or new owner who wishes to receive

1 the credit shall refile the claim for credit. When a
2 portion of a parcel or property unit that is allowed
3 a credit under this chapter is sold, transferred, or
4 ownership otherwise changes, the owner of the portion
5 of the parcel or property unit for which ownership did
6 not change shall refile the claim for credit.

7 5. The assessor shall remit the claims for
8 credit to the county auditor with the assessor's
9 recommendation for allowance or disallowance. If
10 the assessor recommends disallowance of a claim,
11 the assessor shall submit the reasons for the
12 recommendation, in writing, to the county auditor. The
13 county auditor shall forward the claims to the board
14 of supervisors. The board shall allow or disallow the
15 claims.

16 6. For each claim and allowance of a credit for
17 a property unit, the county auditor shall calculate
18 the average of all consolidated levy rates applicable
19 to the several parcels within the property unit. All
20 claims for credit which have been allowed by the board
21 of supervisors, the actual value of the improvements
22 to such parcels and property units applicable to
23 the fiscal year for which the credit is claimed
24 that are subject to assessment and taxation prior to
25 imposition of any applicable assessment limitation,
26 the consolidated levy rates for such parcels and the
27 average consolidated levy rates for such property units
28 applicable to the fiscal year for which the credit is
29 claimed, and the taxing districts in which the parcel
30 or property unit is located, shall be certified on or
31 before June 30, in each year, by the county auditor to
32 the department.

33 7. The assessor shall maintain a permanent file of
34 current business property tax credits. The assessor
35 shall file a notice of transfer of property for which a
36 credit has been allowed when notice is received from
37 the office of the county recorder, from the person
38 who sold or transferred the property, or from the
39 personal representative of a deceased property owner.
40 The county recorder shall give notice to the assessor
41 of each transfer of title filed in the recorder's
42 office. The notice from the county recorder shall
43 describe the property transferred, the name of the
44 person transferring title to the property, and the name
45 of the person to whom title to the property has been
46 transferred.

47 **Sec. 6. NEW SECTION. 426C.4 Eligibility and amount**
48 **of credit.**

49 1. Each parcel classified and taxed as commercial
50 property, industrial property, or railway property

1 under chapter 434, and improved with permanent
2 construction, is eligible for a credit under this
3 chapter. A person may claim and receive one credit
4 under this chapter for each eligible parcel unless
5 the parcel is part of a property unit. A person
6 may only claim and receive one credit under this
7 chapter for each property unit. A credit approved
8 for a property unit shall be allocated to the several
9 parcels within the property unit in the proportion
10 that each parcel's total amount of property taxes due
11 and payable attributable to the improvements bears to
12 the total amount of property taxes due and payable
13 attributable to the improvements for the property unit.
14 Only property units comprised of commercial property,
15 comprised of industrial property, or comprised of
16 railway property under chapter 434 are eligible for a
17 credit under this chapter.

18 2. Using the actual value of the improvements and
19 the consolidated levy rate for each parcel or the
20 average consolidated levy rate for each property unit,
21 as certified by the county auditor to the department
22 under section 426C.3, subsection 6, the department
23 shall calculate, for each fiscal year, an initial
24 amount of actual value of improvements for use in
25 determining the amount of the credit for each such
26 parcel or property unit so as to provide the maximum
27 possible credit according to the credit formula and
28 limitations under subsection 3, and to provide a
29 total dollar amount of credits against the taxes due
30 and payable in the fiscal year equal to ninety-eight
31 percent of the moneys in the fund following the deposit
32 of the total appropriation for the fiscal year.

33 3. a. The amount of the credit for each parcel or
34 property unit for which a claim for credit under this
35 chapter has been approved shall be calculated under
36 paragraph "b" using the lesser of the initial amount
37 of actual value of the improvements determined by the
38 department under subsection 2, and the actual value
39 of the improvements to the parcel or property unit as
40 certified by the county auditor under section 426C.3,
41 subsection 6.

42 b. The amount of the credit for each parcel or
43 property unit for which a claim for credit under
44 this chapter has been approved shall be equal to the
45 amount of actual value determined under paragraph "a"
46 multiplied by the difference, stated as a percentage,
47 between the assessment limitation applicable to
48 the parcel or property unit under section 441.21,
49 subsection 5, and the assessment limitation applicable
50 to residential property under section 441.21,

1 subsection 4, divided by one thousand dollars, and then
2 multiplied by the consolidated levy rate or average
3 consolidated levy rate for one thousand dollars of
4 taxable value applicable to the parcel or property unit
5 for the fiscal year for which the credit is claimed as
6 certified by the county auditor under section 426C.3,
7 subsection 6.

8 **Sec. 7. NEW SECTION. 426C.5 Payment to counties.**

9 1. Annually the department shall certify to the
10 county auditor of each county the amounts of the
11 business property tax credits allowed in the county.
12 Each county auditor shall then enter the credits
13 against the tax levied on each eligible parcel or
14 property unit in the county, designating on the tax
15 lists the credit as being from the fund. Each taxing
16 district shall receive its share of the business
17 property tax credit allowed on each eligible parcel
18 or property unit in such taxing district, in the
19 proportion that the levy made by such taxing district
20 upon the parcel or property unit bears to the total
21 levy upon the parcel or property unit by all taxing
22 districts imposing a property tax in such taxing
23 district. However, the several taxing districts
24 shall not draw the moneys so credited until after the
25 semiannual allocations have been received by the county
26 treasurer, as provided in this section. Each county
27 treasurer shall show on each tax receipt the amount of
28 credit received from the fund.

29 2. The director of the department of administrative
30 services shall issue warrants on the fund payable to
31 the county treasurers of the several counties of the
32 state under this chapter.

33 3. The amount due each county shall be paid in two
34 payments on November 15 and March 15 of each fiscal
35 year, drawn upon warrants payable to the respective
36 county treasurers. The two payments shall be as nearly
37 equal as possible.

38 **Sec. 8. NEW SECTION. 426C.6 Appeals.**

39 1. If the board of supervisors disallows a claim
40 for credit under section 426C.3, subsection 5, the
41 board of supervisors shall send written notice, by
42 mail, to the claimant at the claimant's last known
43 address. The notice shall state the reasons for
44 disallowing the claim for the credit. The board of
45 supervisors is not required to send notice that a claim
46 for credit is disallowed if the claimant voluntarily
47 withdraws the claim. Any person whose claim is denied
48 under the provisions of this chapter may appeal from
49 the action of the board of supervisors to the district
50 court of the county in which the parcel or property

1 unit is located by giving written notice of such appeal
2 to the county auditor within twenty days from the date
3 of mailing of notice of such action by the board of
4 supervisors.

5 2. If any claim for credit has been denied by the
6 board of supervisors, and such action is subsequently
7 reversed on appeal, the credit shall be allowed on the
8 applicable parcel or property unit, and the director of
9 revenue, the county auditor, and the county treasurer
10 shall provide the credit and change their books and
11 records accordingly. In the event the appealing
12 taxpayer has paid one or both of the installments of
13 the tax payable in the year or years in question,
14 remittance shall be made to such taxpayer of the amount
15 of such credit. The amount of such credit awarded on
16 appeal shall be allocated and paid from the balance
17 remaining in the fund.

18 **Sec. 9. NEW SECTION. 426C.7 Audit — denial.**

19 1. If on the audit of a credit provided under this
20 chapter, the director of revenue determines the amount
21 of the credit to have been incorrectly calculated or
22 that the credit is not allowable, the director shall
23 recalculate the credit and notify the taxpayer and the
24 county auditor of the recalculation or denial and the
25 reasons for it. The director shall not adjust a credit
26 after three years from October 31 of the year in which
27 the claim for the credit was filed. If the credit has
28 been paid, the director shall give notification to the
29 taxpayer, the county treasurer, and the applicable
30 assessor of the recalculation or denial of the credit
31 and the county treasurer shall proceed to collect the
32 tax owed in the same manner as other property taxes due
33 and payable are collected, if the parcel or property
34 unit for which the credit was allowed is still owned
35 by the taxpayer. If the parcel or property unit
36 for which the credit was allowed is not owned by the
37 taxpayer, the amount may be recovered from the taxpayer
38 by assessment in the same manner that income taxes are
39 assessed under sections 422.26 and 422.30. The amount
40 of such erroneous credit, when collected, shall be
41 deposited in the fund.

42 2. The taxpayer or board of supervisors may
43 appeal any decision of the director of revenue to the
44 state board of tax review pursuant to section 421.1,
45 subsection 5. The taxpayer, the board of supervisors,
46 or the director of revenue may seek judicial review
47 of the action of the state board of tax review in
48 accordance with chapter 17A.

49 **Sec. 10. NEW SECTION. 426C.8 False claim —**
50 **penalty.**

1 A person who makes a false claim for the purpose of
2 obtaining a credit provided for in this chapter or who
3 knowingly receives the credit without being legally
4 entitled to it is guilty of a fraudulent practice. The
5 claim for a credit of such a person shall be disallowed
6 and if the credit has been paid the amount shall be
7 recovered in the manner provided in section 426C.7. In
8 such cases, the director of revenue shall send a notice
9 of disallowance of the credit.

10 Sec. 11. NEW SECTION. **426C.9 Rules.**

11 The director of revenue shall prescribe forms,
12 instructions, and rules pursuant to chapter 17A, as
13 necessary, to carry out the purposes of this chapter.

14 Sec. 12. IMPLEMENTATION. Notwithstanding the
15 deadline for filing claims established in section
16 426C.3, for a credit against property taxes due and
17 payable during the fiscal year beginning July 1, 2013,
18 the claim for the credit shall be filed not later than
19 January 15, 2013.

20 Sec. 13. APPLICABILITY. This Act applies to
21 property taxes due and payable in fiscal years
22 beginning on or after July 1, 2013.>

23 2. Title page, by striking lines 1 through 11
24 and inserting <An Act establishing a property tax
25 credit for certain commercial, industrial, and railway
26 property, making an appropriation, providing penalties,
27 and including applicability provisions.>

28 3. By renumbering as necessary.

JACOBY of Johnson